

Attorney Docket No. 7885.56USWO

MERCHANT, GOULD, SMITH, EDELL, WELTER & SCHMIDT

United States Patent Application

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **IMMUNO-MAGNETIC CELL SEPARATION USED IN IDENTIFICATION OF GENES ASSOCIATED WITH SITE-PREFERENCED CANCER METHASTASIS FORMATION**

The specification of which

- a. ☐ is attached hereto
b. ☒ was filed on as application serial no. and was amended on (if applicable) (in the case of a PCT-filed application) described and claimed in international no. PCT/NO97/00083 filed Intl Filing Date March 25, 1997 and as amended on (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. ☐ no such applications have been filed.
b. ☒ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
Norway	961221	March 26, 1996	
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

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Reg. No. 40,481
Reg. No. P-42,264
Reg. No. 32,960
Reg. No. 27,612
Reg. No. 29,249
Reg. No. 41,622
Reg. No. 31,329
Reg. No. 17,426
Reg. No. 34,130
Reg. No. 32,404
Reg. No. 39,927
Reg. No. 25,959
Reg. No. 35,093
Reg. No. 33,227
Reg. No. 39,634
Reg. No. 30,247
Reg. No. 25,968
Reg. No. 34,994
Reg. No. 40,579
Reg. No. 36,414
Reg. No. P-42,157
Reg. No. 28,707
Reg. No. 20,187
Reg. No. 39,667
Reg. No. 32,612
Reg. No. 37,830
Reg. No. 40,620
Reg. No. 26,896
Reg. No. 38,472
Reg. No. 18,223
Reg. No. P-41,804
Reg. No. 33,112
Reg. No. 29,165
Reg. No. 31,838
Reg. No. 39,721
Reg. No. 37,160
Reg. No. 33,924
Reg. No. 40,684
Reg. No. 31,535
Reg. No. 36,848

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Reg. No. 38,946
Reg. No. 40,443
Reg. No. 29,555
Reg. No. 40,701
Reg. No. 36,204
Reg. No. 35,600
Reg. No. 37,674
Reg. No. 32,044
Reg. No. 40,337
Reg. No. 30,300
Reg. No. 40,099
Reg. No. 28,650
Reg. No. 40,123
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Reg. No. 37,703
Reg. No. 25,767
Reg. No. 32,933
Reg. No. 39,828
Reg. No. 31,197
Reg. No. 30,422
Reg. No. 33,280
Reg. No. 40,178
Reg. No. P-43,352
Reg. No. 29,114
Reg. No. 24,216
Reg. No. 32,314
Reg. No. 38,344
Reg. No. 27,403
Reg. No. 32,179
Reg. No. 39,868
Reg. No. 20,890
Reg. No. P-43,261
Reg. No. 27,054
Reg. No. 41,910
Reg. No. 28,113
Reg. No. P-42,236
Reg. No. 39,536

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant, Gould, Smith, Edell, Welter & Schmidt to the contrary.

Please direct all correspondence in this case to Merchant, Gould, Smith, Edell, Welter & Schmidt at the address indicated below:

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Minneapolis, MN 55402-4131

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Signature of Inventor 204:					Date:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name Fodstad	First Given Name Oystein	Second Given Name
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Signature of Inventor 204:			Date: 26/9-98	

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application:

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.